

REMARKS

INTRODUCTION:

In accordance with the foregoing, the Specification and drawings have been amended as indicated, elected claims 1, 2, 5, 8, 9, 17, 37, and 42 have been amended. Withdrawn claims 6, 7, 20, 23, and 28 have been amended. No new matter is being presented, and approval and entry of the foregoing amendments and new claims are respectfully requested.

Claims 1-42 are pending, and claims 1-5, 8, 9, 12-14, 16-18, and 37-42 are under consideration.

OBJECTIONS TO THE DRAWINGS:

In the Office Action at pages 2-3, the Examiner objects to FIG. 3 under 37 CFR 1.84(p) as the Examiner believes that FIG. 3 does not show a sign [such as a unit 100] which is outputting the seek direction detecting signal. As such, FIG. 3 has been amended as suggested by the Examiner, and reconsideration of the objection under 37 CFR 1.84(p) is respectfully requested.

Further, the Examiner objects to FIG. 3 as not comporting with the requirements of 37 CFR 1.83(a) and 1.84(o) since the elements are not illustrated as well known graphical illustrations such that the Examiner requires more meaningful legends. As a point of clarification, the Examiner does not set forth which elements are asserted to be contrary to 37 CFR 1.83(a) and 1.84(o). Additionally, assuming that the Examiner is asserting that the legends for elements 30 and 40 are inappropriate, it is noted that the element legends comport with the description in the specification as discussed and agreed with the Examiner in the interview of July 29, 2004 and relate the described example in FIG. 3 with specific examples of elements 30 and 40 found in FIGs. 5-7. Therefore, it is respectfully submitted that the shown labels for at least elements 30 and 40 are consistent with 37 CFR 1.84(o) and that it is unclear as to what legend would be more descriptive of the first and second signal processing portions. As such, it is respectfully requested that the Examiner reconsider and withdraw the objection under 37 CFR 1.83(a) and 1.84(o).

CHANGES TO THE SPECIFICATION:

The specification has been reviewed in response to this Office Action. Changes have been made to the specification only to place it in preferred and better U.S. form for issuance and

to resolve the Examiner's objections to the drawings raised in the Office Action. No new matter has been added.

REJECTION UNDER 35 U.S.C. §112:

In the Office Action at pages 3-4, the Examiner rejects claims 1-5, 8, 9, 12-14, 16-18, and 42 under 35 U.S.C. §112, first and second paragraph, for the reasons set forth therein. This rejection is respectfully traversed and reconsideration is requested.

The Examiner's basis in rejecting claims 1-5, 8, 9, 12-14, 16-18, and 14 under 35 U.S.C. §112, first and second paragraph, is that the claims recite a second processing portion to generate the seek direction detecting signal, whereas paragraph 0028 does not describe the second processing portion 40 as generating the seek direction detecting signal.

As an initial point of clarification, claim 8 does not have a feature corresponding to that set forth in the Office Action as grounds for rejection. As such, it is respectfully requested that the Examiner reconsider and withdraw the rejection to claim 8.

It is further respectfully submitted that applicants are entitled to more generally describe the invention in the claims as compared to the specific embodiments and examples set forth in the specification. Also, it is noted that there is a strong presumption that originally presented claims and embodiments of the invention set forth in the specification are compliant with 35 U.S.C. §112, first paragraph. See, generally MPEP 2163(A). It is respectfully submitted that the specification in at least paragraph 0012 as well as in the claims, such as claim 1 as originally filed, set forth a second processing portion which generates the seek direction detecting signal. As such, it is respectfully requested that the Examiner reconsider and withdraw the rejection.

Additionally, in order to establish a prima facie basis for a rejection under 35 U.S.C. §112, second paragraph, the Examiner needs to provide evidence that the subject matter of the claims does not comport with the invention. Further, mere differences between the specification and the claims are not sufficient to sustain a rejection under 35 U.S.C. §112, second paragraph, since the applicants are entitled to broadly claim the subject matter of the invention. As noted in MPEP 2172(II), "[t]he content of applicant's specification is not used as evidence that the scope of the claims is inconsistent with the subject matter which applicants regard as their invention." Therefore, it is respectfully submitted that the claims remain consistent with the requirements of 35 U.S.C. §112, second paragraph, and it is respectfully requested that the Examiner reconsider and withdraw the rejection.

However, in order to more broadly set forth aspects of the invention, the claims have been amended as indicated without narrowing the scope of the invention and for reasons other

than patentability. As such, it is respectfully requested that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. §112.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action at pages 4-6, the Examiner rejects claims 37-41 under 35 U.S.C. §103 in view of FIGs. 1 and 2 of the instant application (hereinafter "the Other Device") and Musha (U.S. Patent No. 4,425,636). The rejection is respectfully traversed and reconsideration is requested.

On page 4 of the Office Action, the Examiner asserts that the Other Device shows a sub beam having an optical aberration not disposed in line and incident off of the common track. By way of review, the Other Device discloses a main beam Bm and two sub beams Bs1, Bs2. The two sub beams Bs1, Bs2 are 1/2 track off of the main beam Bm. (Paragraph 0005, FIG. 1 of the Other Device). However, there is no disclosure or suggestion of an aberration for either of the two sub beams Bs1, Bs2, or of a placement for such an aberration relative to the track and the sub beams Bs1, Bs2. Since Musha is not relied upon as disclosing and does not disclose such a feature, it is respectfully submitted that the combination does not disclose or suggest, among other features, that "the sub-beam further comprises an optical aberration not disposed in the line and incident off of the common track" as recited in claim 37.

For at least similar reasons, it is respectfully submitted that the combination does not disclose or suggest the invention as recited in claim 40.

On page 6 of the Office Action, the Examiner asserts that the Other Device discloses that the track cross signal is generated without the reflected main beam as does invention of claim 39. However, as described in paragraph 0008 of the instant application, the track cross signal (TCS) of the Other Device "uses a difference signal $S_{1d} - S_{2d}$ of push-pull signals S_{1d} and S_{2d} respectively output from the first and second optical sub-detectors 2b and 2c, and the push-pull signal M_d ." Since the push-pull signal M_d is based upon the output of the main optical detector 2a, which receive the main beam 2a as disclosed in paragraph 0006, the Other Device uses the main beam 2a. Since Musha is not relied upon as disclosing and does not disclose such a feature, it is respectfully submitted that the combination does not disclose or suggest, among other features, that "the track cross signal is generated without the reflected main beam" as recited in claim 39.

Claims 38 and 41 are deemed patentable due at least to their depending from corresponding claims 37 and 40.

CONCLUSION:


In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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Date: March 21, 2005

IN THE DRAWINGS:

Pursuant to the enclosed separate Letter to the Examiner Requesting Approval of Drawing Changes, amendment to FIG. 3 is respectfully requested.